

(1) the quality and efficiency of immigration services rendered by the Federal Government should be improved after the transfers made by this part take effect; and

(2) the Secretary should undertake efforts to guarantee that concerns regarding the quality and efficiency of immigration services are addressed after such effective date.

(Pub. L. 107-296, title IV, § 478, Nov. 25, 2002, 116 Stat. 2211.)

SUBCHAPTER V—EMERGENCY PREPAREDNESS AND RESPONSE

§ 311. Under Secretary for Emergency Preparedness and Response

There shall be in the Department a Directorate of Emergency Preparedness and Response headed by an Under Secretary for Emergency Preparedness and Response.

(Pub. L. 107-296, title V, § 501, Nov. 25, 2002, 116 Stat. 2212.)

§ 312. Responsibilities

The Secretary,¹ acting through the Under Secretary for Emergency Preparedness and Response, shall include—

(1) helping to ensure the effectiveness of emergency response providers to terrorist attacks, major disasters, and other emergencies;

(2) with respect to the Nuclear Incident Response Team (regardless of whether it is operating as an organizational unit of the Department pursuant to this subchapter)—

(A) establishing standards and certifying when those standards have been met;

(B) conducting joint and other exercises and training and evaluating performance; and

(C) providing funds to the Department of Energy and the Environmental Protection Agency, as appropriate, for homeland security planning, exercises and training, and equipment;

(3) providing the Federal Government's response to terrorist attacks and major disasters, including—

(A) managing such response;

(B) directing the Domestic Emergency Support Team, the National Disaster Medical System, and (when operating as an organizational unit of the Department pursuant to this subchapter) the Nuclear Incident Response Team;

(C) overseeing the Metropolitan Medical Response System; and

(D) coordinating other Federal response resources, including requiring deployment of the Strategic National Stockpile, in the event of a terrorist attack or major disaster;

(4) aiding the recovery from terrorist attacks and major disasters;

(5) building a comprehensive national incident management system with Federal, State, and local government personnel, agencies, and authorities, to respond to such attacks and disasters;

(6) consolidating existing Federal Government emergency response plans into a single, coordinated national response plan; and

(7) helping to ensure that emergency response providers acquire interoperable communications technology.

(Pub. L. 107-296, title V, § 502, Nov. 25, 2002, 116 Stat. 2212; Pub. L. 108-276, § 3(b)(1), July 21, 2004, 118 Stat. 852; Pub. L. 108-458, title VII, § 7303(h)(1), Dec. 17, 2004, 118 Stat. 3846.)

AMENDMENTS

2004—Par. (3)(B). Pub. L. 108-276, § 3(b)(1)(A), struck out “the Strategic National Stockpile,” after “Domestic Emergency Support Team,”.

Par. (3)(D). Pub. L. 108-276, § 3(b)(1)(B), inserted “, including requiring deployment of the Strategic National Stockpile,” after “resources”.

Par. (7). Pub. L. 108-458 struck out “developing comprehensive programs for developing interoperative communications technology, and” before “helping” and substituted “acquire interoperable communications technology” for “acquire such technology”.

EX. ORD. NO. 13347. INDIVIDUALS WITH DISABILITIES IN EMERGENCY PREPAREDNESS

Ex. Ord. No. 13347, July 22, 2004, 69 F.R. 44573, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to strengthen emergency preparedness with respect to individuals with disabilities, it is hereby ordered as follows:

SECTION 1. *Policy.* To ensure that the Federal Government appropriately supports safety and security for individuals with disabilities in situations involving disasters, including earthquakes, tornadoes, fires, floods, hurricanes, and acts of terrorism, it shall be the policy of the United States that executive departments and agencies of the Federal Government (agencies):

(a) consider, in their emergency preparedness planning, the unique needs of agency employees with disabilities and individuals with disabilities whom the agency serves;

(b) encourage, including through the provision of technical assistance, as appropriate, consideration of the unique needs of employees and individuals with disabilities served by State, local, and tribal governments and private organizations and individuals in emergency preparedness planning; and

(c) facilitate cooperation among Federal, State, local, and tribal governments and private organizations and individuals in the implementation of emergency preparedness plans as they relate to individuals with disabilities.

SEC. 2. *Establishment of Council.* (a) There is hereby established, within the Department of Homeland Security for administrative purposes, the Interagency Coordinating Council on Emergency Preparedness and Individuals with Disabilities (the “Council”). The Council shall consist exclusively of the following members or their designees:

(i) the heads of executive departments, the Administrator of the Environmental Protection Agency, the Administrator of General Services, the Director of the Office of Personnel Management, and the Commissioner of Social Security; and

(ii) any other agency head as the Secretary of Homeland Security may, with the concurrence of the agency head, designate.

(b) The Secretary of Homeland Security shall chair the Council, convene and preside at its meetings, determine its agenda, direct its work, and, as appropriate to particular subject matters, establish and direct subgroups of the Council, which shall consist exclusively of Council members.

(c) A member of the Council may designate, to perform the Council functions of the member, an employee

¹ So in original.

of the member's department or agency who is either an officer of the United States appointed by the President, or a full-time employee serving in a position with pay equal to or greater than the minimum rate payable for GS-15 of the General Schedule.

SEC. 3. *Functions of Council.* (a) The Council shall:

(i) coordinate implementation by agencies of the policy set forth in section 1 of this order;

(ii) whenever the Council obtains in the performance of its functions information or advice from any individual who is not a full-time or permanent part-time Federal employee, obtain such information and advice only in a manner that seeks individual advice and does not involve collective judgment or consensus advice or deliberation; and

(iii) at the request of any agency head (or the agency head's designee under section 2(c) of this order) who is a member of the Council, unless the Secretary of Homeland Security declines the request, promptly review and provide advice, for the purpose of furthering the policy set forth in section 1, on a proposed action by that agency.

(b) The Council shall submit to the President each year beginning 1 year after the date of this order, through the Assistant to the President for Homeland Security, a report that describes:

(i) the achievements of the Council in implementing the policy set forth in section 1;

(ii) the best practices among Federal, State, local, and tribal governments and private organizations and individuals for emergency preparedness planning with respect to individuals with disabilities; and

(iii) recommendations of the Council for advancing the policy set forth in section 1.

SEC. 4. *General.* (a) To the extent permitted by law:

(i) agencies shall assist and provide information to the Council for the performance of its functions under this order; and

(ii) the Department of Homeland Security shall provide funding and administrative support for the Council.

(b) Nothing in this order shall be construed to impair or otherwise affect the functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.

(c) This order is intended only to improve the internal management of the executive branch and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its departments, agencies, instrumentalities, or entities, its officers or employees, or any other person.

GEORGE W. BUSH.

§ 313. Functions transferred

In accordance with subchapter XII of this chapter, there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of the following entities:

(1) The Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto.

(2) The Integrated Hazard Information System of the National Oceanic and Atmospheric Administration, which shall be renamed "FIRESAT".

(3) The National Domestic Preparedness Office of the Federal Bureau of Investigation, including the functions of the Attorney General relating thereto.

(4) The Domestic Emergency Support Teams of the Department of Justice, including the functions of the Attorney General relating thereto.

(5) The Office of Emergency Preparedness, the National Disaster Medical System, and the

Metropolitan Medical Response System of the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services and the Assistant Secretary for Public Health Emergency Preparedness relating thereto.

(Pub. L. 107-296, title V, § 503, Nov. 25, 2002, 116 Stat. 2213; Pub. L. 108-276, § 3(c)(3), July 21, 2004, 118 Stat. 853.)

AMENDMENTS

2004—Par. (6). Pub. L. 108-276 struck out par. (6) which read as follows: "The Strategic National Stockpile of the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services relating thereto."

§ 314. Nuclear incident response

(a) In general

At the direction of the Secretary (in connection with an actual or threatened terrorist attack, major disaster, or other emergency in the United States), the Nuclear Incident Response Team shall operate as an organizational unit of the Department. While so operating, the Nuclear Incident Response Team shall be subject to the direction, authority, and control of the Secretary.

(b) Rule of construction

Nothing in this subchapter shall be construed to limit the ordinary responsibility of the Secretary of Energy and the Administrator of the Environmental Protection Agency for organizing, training, equipping, and utilizing their respective entities in the Nuclear Incident Response Team, or (subject to the provisions of this subchapter) from exercising direction, authority, and control over them when they are not operating as a unit of the Department.

(Pub. L. 107-296, title V, § 504, Nov. 25, 2002, 116 Stat. 2213.)

§ 315. Conduct of certain public health-related activities

(a) In general

With respect to all public health-related activities to improve State, local, and hospital preparedness and response to chemical, biological, radiological, and nuclear and other emerging terrorist threats carried out by the Department of Health and Human Services (including the Public Health Service), the Secretary of Health and Human Services shall set priorities and preparedness goals and further develop a coordinated strategy for such activities in collaboration with the Secretary.

(b) Evaluation of progress

In carrying out subsection (a) of this section, the Secretary of Health and Human Services shall collaborate with the Secretary in developing specific benchmarks and outcome measurements for evaluating progress toward achieving the priorities and goals described in such subsection.

(Pub. L. 107-296, title V, § 505, Nov. 25, 2002, 116 Stat. 2213.)

§ 316. Definition

In this subchapter, the term “Nuclear Incident Response Team” means a resource that includes—

- (1) those entities of the Department of Energy that perform nuclear or radiological emergency support functions (including accident response, search response, advisory, and technical operations functions), radiation exposure functions at the medical assistance facility known as the Radiation Emergency Assistance Center/Training Site (REAC/TS), radiological assistance functions, and related functions; and
- (2) those entities of the Environmental Protection Agency that perform such support functions (including radiological emergency response functions) and related functions.

(Pub. L. 107–296, title V, § 506, Nov. 25, 2002, 116 Stat. 2214.)

§ 317. Role of Federal Emergency Management Agency**(a) In general**

The functions of the Federal Emergency Management Agency include the following:

- (1) All functions and authorities prescribed by the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).
- (2) Carrying out its mission to reduce the loss of life and property and protect the Nation from all hazards by leading and supporting the Nation in a comprehensive, risk-based emergency management program—
 - (A) of mitigation, by taking sustained actions to reduce or eliminate long-term risk to people and property from hazards and their effects;
 - (B) of planning for building the emergency management profession to prepare effectively for, mitigate against, respond to, and recover from any hazard;
 - (C) of response, by conducting emergency operations to save lives and property through positioning emergency equipment and supplies, through evacuating potential victims, through providing food, water, shelter, and medical care to those in need, and through restoring critical public services;
 - (D) of recovery, by rebuilding communities so individuals, businesses, and governments can function on their own, return to normal life, and protect against future hazards; and
 - (E) of increased efficiencies, by coordinating efforts relating to mitigation, planning, response, and recovery.

(b) Federal Response Plan**(1) Role of FEMA**

Notwithstanding any other provision of this chapter, the Federal Emergency Management Agency shall remain the lead agency for the Federal Response Plan established under Executive Order No. 12148 (44 Fed. Reg. 43239) and Executive Order No. 12656 (53 Fed. Reg. 47491).

(2) Revision of Response Plan

Not later than 60 days after November 25, 2002, the Director of the Federal Emergency

Management Agency shall revise the Federal Response Plan to reflect the establishment of and incorporate the Department.

(Pub. L. 107–296, title V, § 507, Nov. 25, 2002, 116 Stat. 2214.)

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (a)(1), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

This chapter, referred to in subsec. (b)(1), was in the original “this Act”, meaning Pub. L. 107–296, Nov. 25, 2002, 116 Stat. 2135, known as the Homeland Security Act of 2002, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 101 of this title and Tables.

Executive Orders Nos. 12148 and 12656, referred to in subsec. (b)(1), are set out as notes under section 5195 of Title 42, The Public Health and Welfare.

§ 318. Use of national private sector networks in emergency response

To the maximum extent practicable, the Secretary shall use national private sector networks and infrastructure for emergency response to chemical, biological, radiological, nuclear, or explosive disasters, and other major disasters.

(Pub. L. 107–296, title V, § 508, Nov. 25, 2002, 116 Stat. 2215.)

§ 319. Use of commercially available technology, goods, and services

It is the sense of Congress that—

- (1) the Secretary should, to the maximum extent possible, use off-the-shelf commercially developed technologies to ensure that the Department’s information technology systems allow the Department to collect, manage, share, analyze, and disseminate information securely over multiple channels of communication; and
- (2) in order to further the policy of the United States to avoid competing commercially with the private sector, the Secretary should rely on commercial sources to supply the goods and services needed by the Department.

(Pub. L. 107–296, title V, § 509, Nov. 25, 2002, 116 Stat. 2215.)

§ 320. Procurement of security countermeasures for Strategic National Stockpile**(a) Authorization of appropriations**

For the procurement of security countermeasures under section 247d–6b(c) of title 42 (referred to in this section as the “security countermeasures program”), there is authorized to be appropriated up to \$5,593,000,000 for the fiscal years 2004 through 2013. Of the amounts appropriated under the preceding sentence, not to exceed \$3,418,000,000 may be obligated during the fiscal years 2004 through 2008, of which not to exceed \$890,000,000 may be obligated during fiscal year 2004.

(b) Special reserve fund

For purposes of the security countermeasures program, the term “special reserve fund” means the “Biodefense Countermeasures” appropriations account or any other appropriation made under subsection (a) of this section.

(c) Availability

Amounts appropriated under subsection (a) of this section become available for a procurement under the security countermeasures program only upon the approval by the President of such availability for the procurement in accordance with paragraph (6)(B) of such program.

(d) Related authorizations of appropriations**(1) Threat assessment capabilities**

For the purpose of carrying out the responsibilities of the Secretary for terror threat assessment under the security countermeasures program, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 through 2006, for the hiring of professional personnel within the Directorate for Information Analysis and Infrastructure Protection, who shall be analysts responsible for chemical, biological, radiological, and nuclear threat assessment (including but not limited to analysis of chemical, biological, radiological, and nuclear agents, the means by which such agents could be weaponized or used in a terrorist attack, and the capabilities, plans, and intentions of terrorists and other non-state actors who may have or acquire such agents). All such analysts shall meet the applicable standards and qualifications for the performance of intelligence activities promulgated by the Director of Central Intelligence pursuant to section 403-4¹ of title 50.

(2) Intelligence sharing infrastructure

For the purpose of carrying out the acquisition and deployment of secure facilities (including information technology and physical infrastructure, whether mobile and temporary, or permanent) sufficient to permit the Secretary to receive, not later than 180 days after July 21, 2004, all classified information and products to which the Under Secretary for Information Analysis and Infrastructure Protection is entitled under part A of subchapter II of this chapter, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 through 2006.

(Pub. L. 107-296, title V, § 510, as added Pub. L. 108-276, § 3(b)(2), July 21, 2004, 118 Stat. 852.)

REFERENCES IN TEXT

Section 403-4 of title 50, referred to in subsec. (d)(1), was repealed and a new section 403-4 enacted by Pub. L. 108-458, title I, § 1011(a), Dec. 17, 2004, 118 Stat. 3660, and, as so enacted, section 403-4 no longer relates to promulgation of standards and qualifications for the performance of intelligence activities.

CODIFICATION

Another section 510 of Pub. L. 107-296 is classified to section 321 of this title.

¹ See References in Text note below.

CHANGE OF NAME

Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the intelligence community deemed to be a reference to the Director of National Intelligence. Reference to the Director of Central Intelligence or the Director of the Central Intelligence Agency in the Director's capacity as the head of the Central Intelligence Agency deemed to be a reference to the Director of the Central Intelligence Agency. See section 1081(a), (b) of Pub. L. 108-458, set out as a note under section 401 of Title 50, War and National Defense.

§ 321. Urban and other high risk area communications capabilities**(a) In general**

The Secretary, in consultation with the Federal Communications Commission and the Secretary of Defense, and with appropriate governors, mayors, and other State and local government officials, shall provide technical guidance, training, and other assistance, as appropriate, to support the rapid establishment of consistent, secure, and effective interoperable communications capabilities in the event of an emergency in urban and other areas determined by the Secretary to be at consistently high levels of risk from terrorist attack.

(b) Minimum capabilities

The interoperable communications capabilities established under subsection (a) of this section shall ensure the ability of all levels of government agencies, emergency response providers (as defined in section 101 of this title), and other organizations with emergency response capabilities—

(1) to communicate with each other in the event of an emergency; and

(2) to have appropriate and timely access to the Information Sharing Environment described in section 485 of this title.

(Pub. L. 107-296, title V, § 510, as added Pub. L. 108-458, title VII, § 7303(d), Dec. 17, 2004, 118 Stat. 3844.)

CODIFICATION

Another section 510 of Pub. L. 107-296 is classified to section 320 of this title.

SUBCHAPTER VI—TREATMENT OF CHARITABLE TRUSTS FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES AND OTHER GOVERNMENTAL ORGANIZATIONS

§ 331. Treatment of charitable trusts for members of the Armed Forces of the United States and other governmental organizations

(a) Findings

Congress finds the following:

(1) Members of the Armed Forces of the United States defend the freedom and security of our Nation.

(2) Members of the Armed Forces of the United States have lost their lives while battling the evils of terrorism around the world.

(3) Personnel of the Central Intelligence Agency (CIA) charged with the responsibility of covert observation of terrorists around the